

**WAUKESHA COUNTY  
MINUTES OF THE PARK AND PLANNING COMMISSION  
ADMINISTRATION CENTER  
THURSDAY, JANUARY 6, 2011 1:00 P.M.**

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**CALL TO ORDER**

Bill Mitchell, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present:	Bill Mitchell	Bob Peregrine	Walter Kolb	Gary Goodchild
	Jim Siepmann	Fritz Ruf	Pat Haukohl	

Commission

Members Absent: None

Staff

Members Present: Jason Fruth, Planning and Zoning Manager  
Elfriede Sprague, Clerk Typist III  
Kathy Brady, Secretary Supervisor

Guests Present:

- SZT-1702 Henry Elling, Village of Summit Administrator
- SZT-1702 Mike Court, Village of Summit Engineer
- SZT-1702 Mark Mickelson, Yaggy Colby and Associates
- SZT-1702 Michelle Schneider, WDNR, Water Regulations and Zoning Engineer
- SZT-1702 Andy Hudak, WDNR, Water Regulations And Zoning Specialist
- SZT-1702 Mark Mader, County Board
- ZT-1711 Virginia Secor

**CORRESPONDENCE:** None.

**MEETING APPROVAL:** None.

**MINUTES:** None.

**PUBLIC COMMENT:**

Chairman Mitchell asked if anyone from the audience wished to address the Commission? With no public comment, he moved to the next item on the agenda.

• **SZT-1702 (Village of Summit - Genesee Lakes Outlet), Village of Summit, Sections 21, 22, 27 & 28 (C-1 Conservancy and EFD Existing Floodplain Development Overlay Districts to various Upland Zoning Districts)**

Mr. Fruth presented the "Staff Report and Recommendation" dated December January 6, 2011, and made a part of these Minutes. He stated this is a comprehensive zoning amendment request encompassing various properties along the shoreline of Middle and Lower Genesee Lakes and the nearby Genesee Lake Farms subdivision in the Village of Summit. He identified the properties on the aerial photograph and on the map attached to the Staff Report and Recommendation.

Mr. Fruth explained the Genesee Lakes have had historic flooding problems over time, recalling at least three major events in the past few decades, with the most recent significant flooding event occurring in the summer of 2008. Flooding occurred primarily on properties along Lower Genesee Lake and specifically

Douglas Dr. Some properties along the southern half of Middle Genesee Lakes also experienced flooding and the Genesee Lake Farms subdivision, west of Dousman Rd. suffered flooded basements. A flood relief outlet has been discussed for this lake system over the past 25 years because of the chronic flooding problems. The Genesee Lakes are seepage lakes and have no natural outlet. Consequently, flooding occurs around the banks of the lake and groundwater levels become elevated during times of heavy rain or snowmelt. The floodplain areas around the subject lakes are currently mapped as Zone A floodplain, which is an unstudied zone. Based upon observed and surveyed high water lines, it is clear that the mapped Zone A floodplain is not representative of actual conditions that result in times of flooding.

Yaggy Colby and Associates, the Village's engineering firm, has prepared a detailed floodplain analysis which involves a study of the floodplain associated with Upper, Lower and Middle Genesee Lakes, which are hydrologically connected; however, Upper Genesee Lake does not suffer flooding problems as the banks are fairly steep. The analysis has been submitted to the County, SEWRPC floodplain engineers and the DNR. Andy Hudak of the DNR, spent a lot of time communicating with Yaggy Colby, the Town and the County as far as looking at resource impacts, setting appropriate elevations, etc.

Mr. Fruth presented maps and exhibits that outlined the proposed project and identified the placement of a flood relief structure partially within the Lower Lake Road right-of-way at the south end of Lower Genesee Lake. He explained that in times of high water, the outlet would convey water into a proposed 18" diameter pipeline that would ultimately discharge into a wetland area within Outlot 5 of the Genesee Lake Farms subdivision. The water that then outlets from the wetland system would discharge into a navigable tributary system to the south, which ultimately connects to the Bark River. Two smaller pipelines are proposed within the Genesee Lakes subdivision. One pipeline would provide an outlet to a stormwater pond while the other would provide relief to a roadside ditch. These smaller pipelines would also connect to the main pipeline.

The Bark River flows into Jefferson County into an unstudied section of floodplain. As Yaggy Colby was doing their analysis, a large concern was not to pass along a floodplain impact to downstream property owners, both in the immediate setting along the straightened tributaries but also within the studied Bark River. So as part of the DNR's review of this proposal and questions and concerns raised at the public hearing regarding the potential for adverse drainage or flooding conditions for property owners downstream of the proposed pipeline, the DNR required a waterway capacity evaluation for the anticipated flow path of water through the downstream agricultural waterways as a condition of their Chapter 30 approval of the project. Yaggy Colby conducted such a detailed evaluation in July and August of 2010. The timing of the evaluation was such that the system was in a flooded state in July because of significant rainfall received just a week prior, which afforded engineers the unique opportunity to view conditions similar to what might exist when the outlet would be utilized. The waterway analysis revealed that the existing channels have adequate capacity to convey the anticipated flood waters without creating an adverse impact upon downstream property owners. The DNR has concurred with Yaggy Colby's analysis of downstream waterways.

A larger challenge for the floodplain engineer was getting the project below the .01 foot impact on the Bark River system. In cooperation with the DNR, Yaggy Colby, did do some analysis of the Jefferson County Bark River floodplain conditions and also utilized the unrelated Bark River floodplain study for other stretches of the upstream Bark River. The DNR established an ordinary high water mark for Lower Genesee Lake of 867.85' and set the maximum elevation for the proposed outlet structure, so as to avoid negative impacts to the affected lakes. The main proposed outlet structure would have a 28" x 56" grate that water would overtop at an elevation of 867.8', while a 12" notch or weir would allow a restricted volume of water to flow through at an elevation of 867.1'. The permissible outlet elevation of 867.1' was

set slightly below the ordinary high water mark because wind and wave action causes the high water mark to be slightly higher than typical conditions. The DNR considered concerns regarding navigability, aquatic habitat and shallow water conditions, particularly on Middle Genesee Lake, in arriving at the permissible elevation.

Yaggy Colby has looked at the tributaries and has determined that the water discharging from the pipeline should be contained in the banks of those tributaries. Mrs. Haukohl questioned what would happen if it did not? Mr. Mickelson answered there are ways to slow or stop the flow into the outlet, in fact as part of the Chapter 30 permit requirement, the Village is being required to have a plug at the DPW building in case it is deemed necessary to plug the outlet. She asked Mr. Fruth to explain the proposed zoning. He replied because a new 100-year floodplain elevation is proposed to be established for the areas surrounding the above referenced lakes the proposal would decrease the floodplain elevation surrounding the lakes by approximately 2.2'. Therefore, areas previously zoned C-1 Conservancy District or EFD Existing Floodplain Development Overlay District that are no longer below the 100-year floodplain elevation would be zoned to the adjacent upland zoning classification and identified some properties on the proposed zoning map. The C-1 areas that contain wetlands will remain C-1; even if the floodplain designation is removed from any such areas. While the project will lower the floodplain elevation, it will not remove all structures from the 100-year floodplain. Several properties along Douglas Dr. will remain below the proposed floodplain elevation. However, the decrease in the floodplain elevation should make flooding conditions much less severe for these properties. In addition, the lowered floodplain elevation will keep roadways from flooding.

She expressed concern that the new zoning would open up areas for development that should not be developed. Mr. Fruth explained the newly mapped floodplain is very conservative at an elevation of 870'. In 2008, the Planning and Zoning Division Staff and the surveyor from Public Works went out and actually surveyed the elevation based on water staining on structures, trees, etc. and found it to be 869.5' to 869.6'. In absence of any form of detail, we knew the FEMA mapping at 866' was not correct because there were properties that were not shown in the floodplain that were being badly flooded. To try and protect people and property the elevation was set a little above where we observed it at 870'. If the outlet is constructed, it will change how high the water can go and now that there is a detailed study that considers the available topography layers and the upstream Bark Stream study, there is more complete information than what was ever available for a base line. Also, the elevation will be controlled with a physical structure.

Mr. Goodchild asked what the elevations were for the outlet, weir and outlet exit pipe into the marsh? Mr. Fruth answered the outlet elevation was 867.1' with the weir, the entire overtops at 867.8'. Mr. Mickelson added the exit pipe is at 858.1', which is about a .2% pitch on the pipe and it runs about a mile. Mr. Goodchild noted that in the past, pipes were installed and the lake was lowered and asked if there were ever any problems. Mr. Elling, the Village Administrator, replied that in the most recent event, 2008, the Village pumped over 2 million gallons a day from Middle Genesee Lake into the Bark River and one of the conditions of the permit was that there could be no identifiable impacts at a downstream dam. Throughout the 2 months of pumping there were no "adverse impacts that we identified on a practical basis". The study that Yaggy Colby has done has been to the 1/100<sup>th</sup> of a foot standard and they've revised the drawings sufficiently that the DNR is satisfied there should be no downstream impacts on the Bark River. Mr. Fruth added during discussions, downstream property owners overwhelmingly seemed to think that the Bark River was capable of handling the water from what they had observed over time. He continued that previous studies indicated that the water in this area generally moves in a southwesterly direction and in a flooded condition it is generally through ground water flow. Previously the water naturally got to the Bark River and the current proposal will continue to direct it in the same general natural flow direction.

Mr. Fruth explained that to finance the project the Town of Summit was successful in securing a Community Development Block Grant through Waukesha County and the State Department of Commerce to fund approximately one-half of the proposed million dollar flood relief project. The other half will be funded through the establishment of a new Genesee Lakes Utility District that includes residents around Lower and Middle Genesee Lakes and the Genesee Lake Farms subdivision. (Upper Genesee Lake is not included in the District as they do not experience flooding) There are approximately 200 owners located within the district. These district property owners will be given the option to make a lump sum payment or can elect to make payments over a ten year span to assist in completing the proposed project. Per the grant requirements of the Department of Commerce, the project must be completed by April 30, 2011. At the time of the hearing for the project, a conditional use was also being required by the County, however because Summit became a Village prior to the Conditional Use for land disturbance activity for this project being acted upon by Waukesha County, the Village is now charged with administering the Conditional Use process. He clarified that before the zoning can be formally amended a Letter of Map Revision must be obtained from FEMA. A Letter of Map Revision cannot occur until the project is constructed and As-Built grades are surveyed. The recommendation is that a conditional approval be subject to the Letter of Map Revision being obtained.

Mr. Goodchild asked who would retain ownership of the structure? Mr. Elling replied it would be the Utility District and under the control of the Utility District Commission, who are the Village Board members. It is a separate taxing entity, just for those three areas. The structure would be maintained by the Utility District, probably the Dept. of Public Works contracted through the Village.

*After discussion, Mr. Siepmann moved, seconded by Mr. Peregrine, and carried unanimously for approval as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

**• ZT-1711 (Virginia Secor) Town of Lisbon, Section 28 (A-5 Mini Farm District to the A-3 Agricultural/Residential Estate District),**

Mr. Fruth presented the "Staff Report and Recommendation" dated January 6, 2011, and made a part of these Minutes. He pointed out the location of the property at W256 N5950 North Hill Drive, Town of Lisbon on the aerial photograph.

Mr. Fruth stated this request pertains to the southwesterly most 5.44 acres of a 9.3 acre parcel. The area to be rezoned will encompass all of the lands outside of the Secondary Environmental Corridor (SEC). The petitioner wishes to divide the parcel by Certified Survey Map (CSM) and create a 3.17 acre lot for single family residential use. The owner would retain ownership of the existing residence and the remainder of the property. He presented the proposed CSM and identified the proposed building envelope and septic area, both outside of the SEC and the 33 ft. access easement.

Mrs. Haukohl noted that in the Staff Analysis mention was made of the slopes, building envelope, ingress/egress easement, etc. and wondered if they should be conditions of approval. Mr. Fruth answered the slopes that show to be in the 12% plus range are in the part of the Upland Corridor, which is not proposed to be developed. He continued that the conceptual CSM has a dedicated building envelope outside of the SEC and stated that the Upland Corridor District provisions would not allow any encroachment. She replied that may be so, but to ensure the building envelope is not in the SEC it would be safer to have it be a condition of the rezoning. She also had concerns regarding the ingress/egress easement. Mr. Fruth replied the issue before the Commission is consideration of the rezone. The CSM was presented to show the underlying reason for the request and he felt confident that the majority of the issues

would be covered under the Town's Land Division Control Ordinance. She felt that if the Town was comfortable with the proposed CSM it should not be a problem adding a condition to the rezone stating that the building envelope must remain outside of the Environmental Corridor. Chairman Mitchell asked if she would approve of the rezone if she were assured there would be no changes to the CSM. She indicated she would probably be agreeable. He commented he is also agreeable to the rezone if the CSM remains as proposed and was confident the Town would take all of the Commission's concerns into consideration when reviewing the CSM. He asked what would be involved if the Commission were to make this a conditional rezoning. Mr. Fruth explained because the property is subject to the Town's Ordinance only, the County is limited in its ability to impose conditions. The Commission can either approve the request or send it back to the Town for reconsideration; however they cannot add conditions without the Town's approval.

*After discussion, Mr. Peregrine moved, seconded by Mr. Ruf, and carried with 6 yes votes for approval, (Mrs. Haukohl voted "No"), in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioner a reasonable use of her land and meets the intent and purposes of all County Ordinances.*

• **ZT-1712 (Margaret Anderson) Town of Lisbon, Sections 29 and 30 (A-10 Agricultural District to the A-5 Mini Farm District)**

Mr. Fruth presented the "Staff Report and Recommendation" dated January 6, 2011, and made a part of these Minutes. He pointed out the location of the property at W267 N5875 Moraine Drive, Town of Lisbon on the aerial photograph.

Mr. Fruth stated the parcel is 14 acres and the petitioner would like to divide the parcel via a CSM into 2 single family residential lots. The westerly lot, Lot 2 of the proposed CSM, would be a land locked parcel that would be served by a 33 ft. wide ingress and egress easement. It would be about 6 acres and the easterly lot, Lot 1 would be about 8 acres including the existing improvements with an existing driveway that would extend westerly to the new lot. There are some areas of hydric inclusions on the property so soils tests will be required if any buildings are to be placed in that area. The Town will have to review the soils during the building permit process. Mrs. Haukohl asked if the Town was as restrictive as the County regarding ground water separation to which Mr. Fruth replied they were actually more restrictive, requiring a 3 ft. separation. Several Commissioners expressed concerns regarding the shared driveway and were uncomfortable approving the rezoning. Mr. Fruth replied that each Town approaches land locked parcels differently and that each such proposal needs to be reviewed by them. He agreed that sometimes they can create problems but in this case it is up to the Town to either approve or deny the creation of the land locked parcel. He reminded the Commission that when approving rezones for the non-four towns, we are looking for conformance with the County Development Plan. The County Development Plan does not have a provision that forbids land locked parcels; however it does recommend and encourage orderly development. Regulations regarding approval of lots not abutting a public road are typically covered either by a Town Zoning Ordinance or a local Subdivision Control Ordinance.

*After discussion, Mr. Peregrine moved, seconded by Mr. Kolb, and carried with 5 yes votes for approval, (Mrs. Haukohl and Mr. Goodchild voted "No"), in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioner a reasonable use of her land and meets the intent and purposes of all County Ordinances.*

- **Amendment to the Regional Water Quality Management Plan for the City of New Berlin**

Mr. Fruth presented the “Amendment to the Regional Water Quality Management Plan for the City of New Berlin” dated December 2010, and made a part of these Minutes. He identified the area to be added to the sewer service area, a 7.7 acre parcel located at 16385 W. Small Road in Section 34 of the City of New Berlin. He explained the parcel is physically adjacent to an existing sewer service area and the City is asking to only attach the one parcel. There are no natural resources on this property and it is designated for future business park/industrial use under the City and County Comprehensive plan. The parcel would be developed for warehouse and office use, serving as an expansion of the BuySeasons facility to the south. Only one restroom is proposed in the facility so the increase in flow would be negligible.

*After discussion, Mrs. Haukohl moved, seconded by Mr. Goodchild, and carried unanimously for approval in accordance with the “Amendment to the Regional Water Quality Management Plan for the City of New Berlin dated December 2010”.*

**ADJOURNMENT**

*With no further business to come before the Commission Mrs. Haukohl moved, seconded by Mr. Goodchild and carried unanimously to adjourn at 2:10 p.m.*

Respectfully submitted,

*Pat Haukohl*

Pat Haukohl  
Secretary

PH:es